

REMARKS

Claims 23-27, 29, 31, 33 and 35 have been newly cancelled herein. Thus, claims 28, 30, 32 and 34 are the only claims pending in the case.

This communication is responsive to the Office Action (Action under Ex Parte Quayle) mailed on March 10, 2004, which set a two-month period for the response. In that Office Action, Examiner Mauria Baker indicated that a call requesting authorization to cancel non-elected claims had been made to Applicants on February 27, 2004, but that no reply had been received. Applicants have no record of receiving such communication. The Office Action was received by the undersigned on March 12, 2004. The Office Action was received by the undersigned on March 12, 2004. A letter reporting the Office Action was mailed to Applicants on April 22, 2004. A letter reporting the Office Action was mailed to Applicants on April 22, 2004. The undersigned attorney for Applicants called Examiner Baker's telephone on May 7, 2004 (571-272-0805). Examiner Baker did not answer and a recorded message encouraged the undersigned to leave a voice mail message. The undersigned proceeded to leave a voice mail message authorizing cancellation of all non-elected claims on Examiner Baker's telephone on May 7, 2004. Applicants were not aware, until learning from Examiner Andrew Wang on December 16, 2004, that Examiner Baker had resigned from the USPTO in March of 2004. The recorded message on Examiner Baker's telephone accessed by the undersigned on May 7, 2004 did not indicate that Examiner Baker was no longer working at the Patent Office. Applicants were unaware that the authorization to cancel non-elected claims given to Examiner Baker by telephone message on May 7, 2004 was not received or recorded by the USPTO.

Interview Summary

Examiner Shibuya called the undersigned on approximately December 16, 2004 asking if a response to the Office Action had been filed. The undersigned related to Examiner Shibuya that a telephone message authorizing cancellation of the un-elected claims had been left on Examiner Baker's telephone on May 7, 2004. Examiner Shibuya refused to consider the telephone message an official communication and indicated that a Notice of Abandonment would be issued. Barry Wilson, an attorney working with the undersigned, discussed these facts

with supervisory Examiner Andrew Wang who also refused to consider the telephone message an official communication.


CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that there are no issues remaining in the case and that a Notice of Allowance should issue forthwith. In the meantime, the Examiner is encouraged to contact the undersigned at the telephone number listed below should there any remaining issues need to be resolved.

Respectfully submitted,

Date January 4, 2005

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